

**BEFORE THE WASHINGTON  
UTILITIES AND TRANSPORTATION COMMISSION**

WASHINGTON UTILITIES AND  
TRANSPORTATION COMMISSION,

Complainant,

v.

PUGET SOUND ENERGY,

Respondent.

DOCKET UE-190324

FINAL ORDER 05

APPROVING SETTLEMENT  
STIPULATION

**BACKGROUND**

- 1 On June 20, 2002, the Utilities and Transportation Commission (Commission) issued the Twelfth Supplemental Order in Dockets UE-011570 and UG-011571 (consolidated) (12th Supp. Order). The 12th Supp. Order approved a settlement and, in that settlement, a Power Cost Adjustment (PCA) mechanism for Puget Sound Energy (PSE or Company). The Commission authorized a change in the annual PCA period to calendar years beginning in January 2007,<sup>1</sup> and made modifications to the PCA in 2015.<sup>2</sup>
- 2 On April 30, 2019, PSE filed testimony, exhibits, and supporting documentation related to power costs deferred under the PCA mechanism for the 12-month period beginning January 1, 2018, and ending December 31, 2018.
- 3 On October 24, 2019, the Commission issued Order 01, Complaint and Order Suspending Filing in this docket, which commenced an adjudicative proceeding and set the matter for hearing. Also on October 24, 2019, the Commission directed Commission staff (Staff) to initiate a prudence investigation into the 2018 outage at the Colstrip Generating Station in Docket UE-190882.

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<sup>1</sup> *Wash. Utils. & Transp. Comm'n v. Puget Sound Energy, Inc.*, Dockets UE-011570 and UG-011571, 16th Supp. Order Amending 12th Supp. Order, ¶ 4 (Nov. 21, 2005).

<sup>2</sup> *Wash. Utils. & Transp. Comm'n v. Puget Sound Energy*, Docket UE-130617, Final Order 11 (Aug. 7, 2015).

- 4 On November 21, 2019, the Commission convened a prehearing conference at its headquarters in Lacey, Washington before Administrative Law Judge Andrew J. O’Connell.
- 5 On March 20, 2020, the Commission issued Final Order 05 in Docket UE-190882, which addressed the prudence of the costs PSE incurred to acquire replacement power for the duration of the 2018 Colstrip outage and the prudence of its decision-making leading up to the outage. The Commission determined that PSE was authorized to recover \$845,602 in post-outage costs, but was not authorized to recover from Washington ratepayers \$11.7 million in replacement power costs resulting from the outage.<sup>3</sup> The Commission left for resolution in this Docket “how the post-outage costs allowed and disallowed for recovery from Washington ratepayers” should interact with PSE’s PCA mechanism.<sup>4</sup>
- 6 On May 20, 2020, PSE, Staff, and the Public Counsel Unit of the Washington Attorney General’s Office (Public Counsel) filed with the Commission a full multiparty settlement (Settlement Stipulation) and supporting joint narrative (Joint Narrative) in this Docket, indicating that the remaining party to this proceeding, the Alliance of Western Energy Consumers (AWEC), neither supports nor opposes the Settlement Stipulation.<sup>5</sup>
- 7 Donna L. Barnett, Perkins Coie, Bellevue, Washington, represents PSE. Joe M. Dallas and Daniel J. Teimouri, Assistant Attorneys General, Lacey, Washington, represent Staff.<sup>6</sup> Lisa W. Gafken and Nina Suetake, Assistant Attorneys General, Seattle, Washington, represent Public Counsel. Tyler Pepple and Brent L. Coleman, Davison Van Cleve, P.C., Portland, Oregon, represent AWEC.

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<sup>3</sup> *In re Investigation of Avista Corp. d/b/a Avista Utils., Puget Sound Energy, and Pacific Power & Light Co. Regarding Prudence of Outage and Replacement Power Costs*, Docket UE-190882, Final Order 05, 26, ¶¶ 115-16 (May 20, 2020).

<sup>4</sup> *Id.* at 21, ¶ 68.

<sup>5</sup> AWEC is the only party that does not join the Settlement. However, AWEC also does not oppose the Settlement, thereby waiving its right to cross-examine witnesses and present evidence or argument contesting it. Accordingly, we proceed with our consideration of the Settlement Stipulation.

<sup>6</sup> In formal proceedings such as this, the Commission’s regulatory staff participates like any other party, while the Commissioners make the decision. To assure fairness, the Commissioners, the presiding administrative law judge, and the Commissioners’ policy and accounting advisors do not discuss the merits of this proceeding with the regulatory staff, or any other party, without giving notice and opportunity for all parties to participate. *See* RCW 34.05.455.

## DISCUSSION AND DECISION

- 8 Settlements must comply with applicable legal requirements and be consistent with the public interest.<sup>7</sup> The Commission “will approve a settlement if it is lawful, supported by an appropriate record, and consistent with the public interest in light of all the information available to the commission.”<sup>8</sup> The Commission may approve a settlement agreement, with or without conditions, or reject it.<sup>9</sup>
- 9 PSE’s PCA mechanism accounts for differences in the Company’s actual power costs relative to a power cost baseline and provides for a sharing of power costs according to three graduated levels, or sharing bands, between the Company and its ratepayers.<sup>10</sup> In the first sharing band (up to \$17 million), all of the costs or benefits are retained by PSE.<sup>11</sup> In the second sharing band (\$17-\$40 million), the costs of any under-recovery are shared equally between PSE and its customers, but 65 percent of the benefits of any over-recovery are allocated to customers while only 35 percent is allocated to PSE. In the third sharing band (over \$40 million), 10 percent of all costs or benefits are allocated to PSE and 90 percent is allocated to customers. Shares of power cost variances allocated to PSE or customers are annually accounted and deferred until the cumulative deferral balance exceeds a positive or negative \$20 million, which would then trigger a surcharge (*i.e.*, the Company may recover the deferral balance from customers) or a refund to customers.
- 10 In this case, PSE witness Free initially testified that power costs variance during PCA Period 17 was an under-recovery of \$3,391,161, which is borne completely by the Company because it falls within the first sharing band.<sup>12</sup> Including the power costs variance during PCA Period 17, PSE initially calculated that the cumulative deferral

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<sup>7</sup> WAC 480-07-740.

<sup>8</sup> WAC 480-07-750(2).

<sup>9</sup> *Id.*

<sup>10</sup> *Wash. Utils. & Transp. Comm’n v. Puget Sound Energy, Inc.*, Dockets UE-011570 and UG-011571, 12th Supp. Order: Rejecting Tariff Filing; Approving and Adopting Settlement Stipulation Subject to Modifications, Clarifications, and Conditions; Authorizing and Requiring Compliance Filing (Jun. 20, 2002).

<sup>11</sup> This first sharing band is also referred to as the “dead band” because PSE incurs all costs or retains all benefits.

<sup>12</sup> Free, Exh. SEF-1T at 9:12-18.

balance for sharing at the end of PCA Period 17 for PCA Periods 1 through 17 was an under-recovery of \$29,359,893.<sup>13</sup>

11 The power costs variance during PCA Period 17 is affected by the Commission's Final Order 05 in Docket UE-190882, which determined that PSE may not recover from Washington ratepayers \$11.7 million in costs associated with the 2018 Colstrip Outage.<sup>14</sup> The only disputed issue remaining for resolution in PSE's PCA mechanism is how the disallowance described in that order impacts the power cost variance of PSE's PCA mechanism.<sup>15</sup> The Settlement Stipulation resolves this outstanding issue.

12 The Settlement Stipulation states:

Consistent with Final Order 05 in Docket UE-190882, the Parties agree to an adjustment to reduce PSE's actual net power costs by \$11.7 million, which represents the calculated replacement power costs for the 2018 Colstrip outage. PSE will revise line 16 on page six of PSE's PCA mechanism annual report for the amount of disallowance. This results in \$672.8 million in total allowable power costs for PCA Period 17.

PSE's initial \$3.5 million under-recovery imbalance therefore becomes an \$8.2 million over-recovery imbalance. Because the amount of the revised imbalance remains within PSE's \$17 million dead-band, there is no resulting change to the customer share of the imbalance.<sup>16</sup>

13 The proposed modification incorporates the Commission-ordered disallowance of \$11.7 million, but the resulting power costs variance for PCA Period 17 – \$8.2 million – remains within the first sharing band. There is no impact to the cumulative deferral balance, which remains at an under-recovery of \$29,359,893 with PSE's share being

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<sup>13</sup> Free, Exh. SEF-1T at 10:1-7; Free, Exh. SEF-3.

<sup>14</sup> PSE's authorized recovery \$845,602 in operations and maintenance and capital expense associated with corrective post-outage actions is not included for recovery in this Docket or the Settlement Stipulation. Joint Narrative at 4, n. 6.

<sup>15</sup> See Joint Narrative at 3-5, ¶¶ 7, 10-13.

<sup>16</sup> Settlement Stipulation at 3-4, ¶¶ 7-8.

\$25,905,548 and the remaining \$3,454,344 being assigned to customers.<sup>17</sup> PSE does not request recovery of this cumulative deferral balance in this proceeding.<sup>18</sup>

14 We find that the Settlement Stipulation is lawful, supported by an appropriate record, and consistent with the public interest. We therefore conclude that the Settlement Stipulation<sup>19</sup> should be approved without condition.

### FINDINGS AND CONCLUSIONS

15 (1) The Commission is an agency of the state of Washington vested by statute with the authority to regulate electric companies in Washington, including PSE.

16 (2) The Commission has jurisdiction over the subject matter of, and parties to, this proceeding.

17 (3) PSE is a “public service company” and an “electrical company” as those terms are defined in RCW 80.04.010 and used in Title 80 RCW.

18 (4) The Settlement Stipulation’s terms are lawful, supported by an appropriate record, and consistent with the public interest in light of all the information available to the Commission.

19 (5) The Commission should approve the Settlement Stipulation without condition.

### ORDER

#### THE COMMISSION ORDERS

20 (1) The Commission approves the Settlement Stipulation, which is attached as Exhibit A to, and incorporated into, this Order, and adopts the Settlement Stipulation as the final resolution of the disputed issues in this docket. The full multiparty settlement presented in this proceeding is lawful, supported by an

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<sup>17</sup> Free, Exh. SEF-1T at 10:1-7; Free, Exh. SEF-3.

<sup>18</sup> Free, Exh. SEF-1T at 10:7-8

<sup>19</sup> The Settlement Stipulation and its attachments are included as Appendix A to this Order. Appendix A is incorporated into, and made part of, this Order by this reference. The terms of the Settlement Stipulation control to the extent of any arguable inconsistency between our description and the terms of the Settlement Stipulation.

appropriate record, and consistent with the public interest and is, therefore, approved without condition.

- 21 (2) Puget Sound Energy and any other party to the proceeding is authorized and required to make any compliance filing and any other filing or submission necessary to effectuate the terms of this Order.
- 22 (3) The Commission retains jurisdiction to enforce the terms of this Order and delegates to the Executive Director and Secretary the authority to confirm compliance with this Order.

DATED at Lacey, Washington, and effective May 29, 2020.

WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION

DAVID W. DANNER, Chairman

ANN E. RENDAHL, Commissioner

JAY M. BALASBAS, Commissioner

**APPENDIX A – SETTLEMENT STIPULATION**